

AMENDED IN ASSEMBLY JULY 19, 2004
AMENDED IN ASSEMBLY JUNE 28, 2004
AMENDED IN ASSEMBLY JUNE 15, 2004
AMENDED IN SENATE MAY 24, 2004
AMENDED IN SENATE MAY 13, 2004
AMENDED IN SENATE APRIL 26, 2004
AMENDED IN SENATE APRIL 12, 2004

SENATE BILL

No. 1462

Introduced by Senator Kuehl
(Coauthor: Senator Romero)
(Coauthor: Assembly Member Koretz)

February 19, 2004

An act to amend Sections 65352, 65404, 65940, and 65944 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1462, as amended, Kuehl. Military readiness activities: special use airspace.

(1) The Planning and Zoning Law requires the planning agency prior to action by a legislative body of a city or county to adopt or substantially amend a general plan, to refer the proposed action to specified entities, including, among other entities, any elementary, high school, or unified school district within the area covered by the proposed action and any areawide planning agency whose operations

may be significantly affected by the proposed action, as determined by the planning agency.

The bill would include among those entities the branches of the United States Armed Forces when the proposed action lies within 1,000 feet of a military installation, within special use airspace, or beneath a low-level flight path and would require the Governor, on or before January 1, 2005, to develop processes to resolve conflicts between the military, a local or state agency, and a project applicant when the proposed project may have the potential to affect military readiness activities.

(2) The Planning and Zoning Law also requires each state agency and each local agency to compile one or more lists that specify in detail the information required from a project applicant as part of its statement of application for a development project and requires that copies of this information be made available to all project applicants and to any person who requests the information.

The bill would also revise the information required in the application by the project applicant when the proposed project is located within 1,000 feet of a military installation, beneath a low-level flight path, or within special use airspace, and would require the public agency to provide a copy of the complete application to any branch of the United States Armed Forces, as specified. The bill would authorize any branch of the United States Armed Forces to request consultation with the public agency and the project applicant to discuss the potential alternatives, mitigation measures, and the effects of the proposed project *on military installations*.

(3) The bill would provide that the provisions specified in (2) above are not operative until the Department of Defense provides electronic maps that identify military installations and special use airspace *at a scale and* in an electronic format that is acceptable to the Office of Planning and Research and provides other related information. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

The bill would also require the Office of Planning and Research, within 30 days of ~~the receipt of the maps~~ *its determination that the information is in an acceptable scale and format*, to notify cities, counties, and cities and counties of the availability of ~~these maps and the descriptions of special use airspace~~ *the information on the Internet*. *It would require cities, counties, and cities and counties to comply with*



the provisions specified in (2) above within 30 days of receiving this notice.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Military installations and their mission are important to the
4 California economy.

5 (2) The military needs military installations, low-level flight
6 paths, and special use airspace to train personnel and test weapons
7 systems effectively.

8 (3) The development of civilian land uses may impair the
9 military's ability to train personnel and test weapons systems.

10 (4) Creating a process to identify and assist in resolving
11 potential conflicts between land uses and the military's need for
12 military installations, low-level flight paths, and special use
13 airspace is essential to California's public health, safety, and
14 welfare.

15 (b) Accordingly, the Legislature finds and declares that it is the
16 policy of the state to cooperate with the military to do all of the
17 following:

18 (1) Consider the effects of civilian land uses that may be
19 incompatible with the military's use of its assets.

20 (2) Create processes to resolve conflicts between civilian land
21 uses and the military's use of its assets.

22 SEC. 2. Section 65352 of the Government Code is amended
23 to read:

24 65352. (a) Prior to action by a legislative body to adopt or
25 substantially amend a general plan, the planning agency shall refer
26 the proposed action to all of the following entities:

1 (1) Any city or county, within or abutting the area covered by
2 the proposal, and any special district that may be significantly
3 affected by the proposed action, as determined by the planning
4 agency.

5 (2) Any elementary, high school, or unified school district
6 within the area covered by the proposed action.

7 (3) The local agency formation commission.

8 (4) Any areawide planning agency whose operations may be
9 significantly affected by the proposed action, as determined by the
10 planning agency.

11 (5) Any federal agency if its operations or lands within its
12 jurisdiction may be significantly affected by the proposed action,
13 as determined by the planning agency.

14 (6) (A) The branches of the United States Armed Forces that
15 have provided the Office of Planning and Research with a
16 California mailing address pursuant to subdivision (d) of Section
17 65944 when the proposed action is within 1,000 feet of a military
18 installation, or lies within special use airspace, or beneath a
19 low-level flight path, as defined in Section 21098 of the Public
20 Resources Code, provided that the United States Department of
21 Defense provides electronic maps of low-level flight paths, special
22 use airspace, and military installations at a scale and in an
23 electronic format that is acceptable to the Office of Planning and
24 Research.

25 (B) *Within 30 days of a determination by the Office of Planning*
26 *and Research that the information provided by the Department of*
27 *Defense is sufficient and in an acceptable scale and format, the*
28 *office shall notify cities, counties, and cities and counties of the*
29 *availability of the information on the Internet. Cities, counties, and*
30 *cities and counties shall comply with subparagraph (A) within 30*
31 *days of receiving this notice from the office.*

32 (7) Any public water system, as defined in Section 116275 of
33 the Health and Safety Code, with 3,000 or more service
34 connections, that serves water to customers within the area
35 covered by the proposal. The public water system shall have at
36 least 45 days to comment on the proposed plan, in accordance with
37 subdivision (b), and to provide the planning agency with the
38 information set forth in Section 65352.5.

39 (8) The Bay Area Air Quality Management District for a
40 proposed action within the boundaries of the district.

(b) Each entity receiving a proposed general plan or amendment of a general plan pursuant to this section shall have 45 days from the date the referring agency mails it or delivers it in which to comment unless a longer period is specified by the planning agency.

(c) (1) This section is directory, not mandatory, and the failure to refer a proposed action to the other entities specified in this section does not affect the validity of the action, if adopted.

(2) To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.

SEC. 3. Section 65404 of the Government Code is amended to read:

65404. (a) On or before January 1, 2005, the Governor shall develop processes to do all of the following:

(1) Resolve conflicting requirements of two or more state agencies for a local plan, permit, or development project.

(2) Resolve conflicts between state functional plans.

(3) Resolve conflicts between state infrastructure projects.

(4) Provide, to the extent permitted under federal law, for the availability of mediation between a branch of the United States Armed Forces, a local agency, and a project applicant, in circumstances where a conflict arises between a proposed land use within special use airspace or beneath low-level flight paths, or within 1,000 feet of a military installation.

(b) The process may be requested by a local agency, project applicant, or one or more state agencies. The mediation process identified in paragraph (4) of subdivision (a) may also be requested by a branch of the United States Armed Forces.

SEC. 4. Section 65940 of the Government Code is amended to read:

65940. (a) Each state agency and each local agency shall compile one or more lists that shall specify in detail the information that will be required from any applicant for a development project. Each local agency shall revise the list of information required from an applicant to include a certification of compliance with Section 65962.5, and the statement of application required by Section 65943. Copies of the information, including the statement of application required by Section 65943,

1 shall be made available to all applicants for development projects
2 and to any person who requests the information.

3 (b) (1) The list of information required from any applicant
4 shall include, *where applicable*, identification of whether the
5 proposed project is located within 1,000 feet of a military
6 installation, beneath a low-level flight path or within special use
7 airspace as defined in Section 21098 of the Public Resources Code,
8 and within an urbanized area as defined in Section 65944.

9 (2) *The information described in paragraph (1) shall be based*
10 *on information provided by the Office of Planning and Research*
11 *pursuant to paragraph (2) of subdivision (d) as of the date of the*
12 *application. Cities, counties, and cities and counties shall comply*
13 *with paragraph (1) within 30 days of receiving this notice from the*
14 *office.*

15 (c) (1) A city, county, or city and county that is not ~~entirely~~
16 beneath a low-level flight path or not ~~entirely~~ within special use
17 airspace and does not contain a military installation is not required
18 to change its list of information required from applicants to
19 comply with subdivision (b).

20 (2) A city, county, or city and county that is entirely urbanized,
21 as defined in subdivision (e) of Section 65944, with the exception
22 of a jurisdiction that contains a military installation, is not required
23 to change its list of information required from applicants to
24 comply with subdivision (b).

25 ~~(d) A city, county, or city and county shall not require a project~~
26 ~~applicant to comply with the special use airspace provisions of~~
27 ~~subdivision (b) if the entire jurisdiction is within an urbanized area~~
28 ~~as defined in subdivision (e) of Section 65944.~~

29 ~~(e) A city, county, or city and county shall not require a project~~
30 ~~applicant to comply with the special use airspace provisions of~~
31 ~~subdivision (b) if the project is proposed entirely within an~~
32 ~~unincorporated area defined as an urbanized area pursuant to~~
33 ~~subdivision (e) of Section 65944.~~

34 ~~(f)~~

35 (d) (1) Subdivision (b) as it relates to ~~special use airspace~~
36 *identification of special use airspace, low-level flight paths,*
37 *military installations,* and urbanized areas shall not be operative
38 until the United States Department of Defense provides electronic
39 maps of low-level flight paths ~~and military installations,~~ *special*
40 *use airspace, and military installations, at a scale and in an*

1 electronic format that is acceptable to the Office of Planning and
2 Research that are available on a single Web site that is accessible
3 to the public. Additionally, the format in which the maps are
4 presented by the Department of Defense must be able to be linked
5 by the Office of Planning and Research to a Web site. The maps
6 shall clearly identify sections, townships, and ranges. A city,
7 county, city and county, state agency, or a project applicant shall
8 base its notice that is required by this section only on the
9 information available on the Office of Planning and Research Web
10 site as of the date that the notice is required.

11 ~~(2) Within 30 days of receipt of the maps, the Office of~~
12 ~~Planning and Research shall notify cities, counties, and cities and~~
13 ~~counties of the availability of these maps as well as the availability~~
14 ~~of the descriptions of special use airspace on the Internet. of~~
15 ~~Planning and Research.~~

16 *(2) Within 30 days of a determination by the Office of Planning*
17 *and Research that the information provided by the Department of*
18 *Defense is sufficient and in an acceptable scale and format, the*
19 *office shall notify cities, counties, and cities and counties of the*
20 *availability of the information on the Internet.*

21 SEC. 5. Section 65944 of the Government Code is amended
22 to read:

23 65944. (a) After a public agency accepts an application as
24 complete, the agency shall not subsequently request of an
25 applicant any new or additional information which was not
26 specified in the list prepared pursuant to Section 65940. The
27 agency may, in the course of processing the application, request
28 the applicant to clarify, amplify, correct, or otherwise supplement
29 the information required for the application.

30 (b) The provisions of subdivision (a) shall not be construed as
31 requiring an applicant to submit with his or her initial application
32 the entirety of the information which a public agency may require
33 in order to take final action on the application. Prior to accepting
34 an application, each public agency shall inform the applicant of
35 any information included in the list prepared pursuant to Section
36 65940 which will subsequently be required from the applicant in
37 order to complete final action on the application.

38 (c) This section shall not be construed as limiting the ability of
39 a public agency to request and obtain information which may be

needed in order to comply with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) (1) After a public agency accepts an application as complete, and if the project applicant has identified that the proposed project is located within 1,000 feet of a military installation or within special use airspace or beneath a low-level flight path in accordance with Section 65940, the public agency shall provide a copy of the complete application to any branch of the United States Armed Forces that has provided the Office of Planning and Research with a single California mailing address within the state for the delivery of a copy of these applications; ~~provided that the United States Department of Defense has provided electronic maps of low-level flight paths, special use airspace, and military installations at a scale and in an electronic format that is acceptable to the Office of Planning and Research.~~

~~(e)~~. *This subdivision shall apply only to development applications submitted to a public agency on or after January 1, 2005.*

(2) Except for a project within 1,000 feet of a military installation, the public agency is not required to provide a copy of the application if the project is located entirely in an “urbanized area.” An urbanized area is any urban location that meets the definition used by the United State Department of Commerce’s Bureau of Census for “urban” and includes locations with core census block groups containing at least 1,000 people per square mile and surrounding census block groups containing at least 500 people per square mile.

~~(f)~~

(e) Upon receipt of a copy of the application as required in subdivision (d), any branch of the United States Armed Forces may request consultation with the public agency and the project applicant to discuss the ~~potential alternatives, mitigation measures, and the effects of the proposed project on military installations, low-level flight paths, or special use airspace.~~

~~(g)~~ *effects of the proposed project on military installations, low-level flight paths, or special use airspace, and potential alternatives and mitigation measures.*

(f) (1) Subdivisions (d), (e), and (f) as these relate to ~~special use airspace~~ *low-level flight paths, special use airspace, and* urbanized areas shall not be operative until the United States

1 Department of Defense provides electronic maps of low-level
2 flight paths ~~and military installations~~, *special use airspace*, and
3 *military installations*, at a scale and in an electronic format that is
4 acceptable to the Office of Planning and Research ~~that are~~
5 ~~available on a single Web site that is accessible to the public. The~~
6 ~~maps shall clearly identify sections, townships, and ranges. The~~
7 ~~maps shall be at a scale in an electronic format that is acceptable~~
8 ~~to the Office of Planning and Research.~~

9 ~~(2) Within 30 days of receipt of the maps, the Office of~~
10 ~~Planning and Research shall notify cities, counties, and cities and~~
11 ~~counties of the availability of these maps as well as the availability~~
12 ~~of the descriptions of special use airspace on the Internet.~~
13 ~~Research.~~

14 *(2) Within 30 days of a determination by the Office of Planning*
15 *and Research that the information provided by the Department of*
16 *Defense is sufficient and in an acceptable scale and format, the*
17 *office shall notify cities, counties, and cities and counties of the*
18 *availability of the information on the Internet. Cities, counties, and*
19 *cities and counties shall comply with subdivision (d) within 30*
20 *days of receiving this notice from the office.*

21 SEC. 6. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 a local agency or school district has the authority to levy service
24 charges, fees, or assessments sufficient to pay for the program or
25 level of service mandated by this act, within the meaning of
26 Section 17556 of the Government Code.